

May 3, 2023

Via ECF

Honorable Lorna G. Schofield
U.S. District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*
Case No. 1:13-cv-07789-LGS (S.D.N.Y.)

Dear Judge Schofield:

Class Counsel respectfully request an order (1) authorizing a reimbursement of \$2,525,564.43 from the Settlement Fund to Class Counsel for expenses already incurred in maintaining the secure data environment necessary for claims data analysis by the Settlement Experts (defined below); and (2) authorizing Class Counsel to seek reimbursement for these expenses on a going forward basis.

By way of background, Class Counsel and Scott+Scott's Information Technology director, Ted McBride, interviewed multiple outside vendors regarding the data hosting needs of this case, which included: (i) an extraordinary amount of storage space and computing power, given the size of the transaction data and types of analysis that would be employed; (ii) the ability to comply with the protective order and the rigorous data security requirements of the financial industry; and (iii) the capacity for multiple experts to access the data simultaneously from different locations spread across 10 time zones. Joint Declaration of Class Counsel in Support of Final Approval and Attorneys' Fees Motions, ECF No. 939, at ¶239 (Jan. 12, 2018) ("Joint Decl."). Class Counsel and Mr. McBride could not find an outside vendor that could meet these requirements either by way of an off-the-shelf or custom solution. *Id.*

Accordingly, Class Counsel engaged Mr. McBride and his company, Litigation Data Services, LLC ("LDS"), to build and maintain the "Sandbox" -- a secure data environment exclusively for the needs of this case. Class Counsel engaged LDS because the work of building and maintaining the Sandbox is outside the scope of the normal IT needs of Scott+Scott, and Mr. McBride was best situated to build the platform given his knowledge of the case and its IT requirements. Joint Decl., at ¶240. Over time, LDS expanded the Sandbox's capacity as the data footprint grew, especially with regards to Class Members' claim data submitted under Option 2 of the Plan of Distribution.

To date, Class Counsel has paid all Sandbox expenses from their "Litigation Fund." Joint Decl., at ¶233. On August 16, 2018, the Court approved, in full, reimbursement of Class Counsel's \$1,656,880.66 in expenses relating to the Sandbox from case inception through December 31, 2017. *See Order Awarding Reimbursement of Litigation Expenses*, ECF No. 1115 (Aug. 16, 2018); *Memorandum of Law in Support of Attorneys' Fees Motion*, ECF No. 938, at 24 (Jan. 12, 2018); Joint Decl., at ¶240.

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Since January 1, 2018, the Sandbox has hosted the transaction databases and analyses platforms used in connection with (1) ongoing litigation against Credit Suisse and (2) the claims process. Regarding the claims process, the Sandbox hosts claim data (both defendant and claimant produced data) and provides a working environment for Ankura Consulting and Velador Associates (together, the “Settlement Experts”) to analyze and value claims. The Settlement Experts must interrogate claims data to analyze and value claims. *See generally* Memorandum in Support of Second Distribution, ECF No. 1628 at 2-4 (describing process of analyzing and valuing claims) (Nov. 23, 2021). Ankura has focused on Option 1 claims processing (using defendant data), and Velador has focused on Option 2 (using claimant data). *See, e.g.*, Class Counsel Letter to Judge Schofield re Claims Administration Expense, ECF No. 1621, at 2 (Nov. 11, 2021).¹

Between January 1, 2018, and March 31, 2023, Class Counsel has paid/incurred \$5,051,128.85 in expenses relating to maintaining the Sandbox.

Class Counsel respectfully seek reimbursement from the Settlement Fund for half of the unreimbursed Sandbox expenses (\$2,525,564.43). The Sandbox is necessary for claims administration, and Sandbox usage for claims administration has been roughly equal to or greater than those attributed to litigation. *See Skelton v. Gen. Motors Corp.*, 661 F. Supp. 1368, 1384 (N.D. Ill. 1987) *aff’d & rev’d in part on other grounds*, 860 F.2d 250 (7th Cir. 1988) (stating that “[i]f a case involves unusual expenditures over and above the expenses necessary for the operation of a law firm, then these expenses are properly chargeable to the fund” and allowing reimbursement of expenses for automated answering machine services, storage space and office supplies, as in the context of that case, given its size and the need to store class information, those expenses were not overhead); *In re “Agent Orange” Product Liability Litig.*, 611 F. Supp. 1296, 1330-31 (E.D.N.Y. 1985), *aff’d & rev’d in part on other grounds*, 818 F.2d 226 (2d Cir. 1987) (allowing reimbursement of expenses – including “rent paid for office space, rental of furniture and office equipment, as well as payments made to office staff and telephone and photocopying expenses” – for running a Brooklyn office set up exclusively for the prosecution of the case). By using the Sandbox for claims processing, Class Counsel realized substantial efficiencies and cost savings. A summary of LDS’s invoices is attached as Exhibit A.

Going forward, Plaintiffs also respectfully seek an order authorizing Class Counsel to include the full amount of the Sandbox expenses as part of our periodic applications to pay additional claims administration expenses from the Settlement Fund. *See, e.g.*, Plaintiffs’ Letter to Judge Schofield re Claims Administration Expense, ECF No. 2048 (March 22, 2023). Beginning in July, we anticipate a reduction in the Sandbox data footprint, and correspondingly, a reduction in costs, as the litigation has concluded and the claims process is winding down. For the Court’s benefit, Class Counsel estimates the Sandbox expenses will be approximately \$145,000 through end of 2023, consisting of charges of \$54,512.10 for May and \$54,512.10 for June, and then approximately \$6,000 per month for the rest of 2023.

¹ Regarding litigation, the Sandbox hosted defendants’ data productions, market data from ECNs (such as EBS, Reuters, and Hotspot), versions of the unified database Plaintiffs’ experts created from defendants’ production, and expert working files, datasets, and analysis outputs. The Sandbox also provided a working environment for experts to perform their analyses.

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For these reasons, Class Counsel respectfully request an order authorizing us: (i) to pay \$2,525,564.43 from the Settlement Fund to Class Counsel to reimburse half of the Sandbox expenses paid/incurred between January 1, 2018 and April 2023 (inclusive); and (ii) to pay the full amount of the Sandbox expenses from the Settlement Fund on a going forward basis, subject to the Court's usual reporting requirements for payment of all other claims administration expenses.

Respectfully submitted,

Korein Tillery PC

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Settlement Class Counsel and Counsel for Plaintiffs

Exhibit A

Litigation Data Services, LLC Invoices (January 2018-present)

Explanation	Month/Year	Allocation to Settlement Fund
Sandbox Data Analysis/Hosting	Jan-18	\$ (52,709.00)
Sandbox Data Analysis/Hosting	Feb-18	\$ (40,071.55)
Sandbox Data Analysis/Hosting	Mar-18	\$ (38,082.80)
Sandbox Data Analysis/Hosting	Apr-18	\$ (37,384.05)
Sandbox Data Analysis/Hosting	May-18	\$ (33,539.25)
Sandbox Data Analysis/Hosting	Jun-18	\$ (32,679.25)
Sandbox Data Analysis/Hosting	Jul-18	\$ (32,034.25)
Sandbox Data Analysis/Hosting	Aug-18	\$ (36,119.25)
Sandbox Data Analysis/Hosting	Sep-18	\$ (36,226.75)
Sandbox Data Analysis/Hosting	Oct-18	\$ (40,226.75)
Sandbox Data Analysis/Hosting	Nov-18	\$ (64,023.91)
Sandbox Data Analysis/Hosting	Dec-18	\$ (62,841.41)
Sandbox Data Analysis/Hosting	Jan-19	\$ (65,421.41)
Sandbox Data Analysis/Hosting	Feb-19	\$ (63,056.41)
Sandbox Data Analysis/Hosting	Mar-19	\$ (64,776.41)
Sandbox Data Analysis/Hosting	Apr-19	\$ (61,013.91)
Sandbox Data Analysis/Hosting	May-19	\$ (57,466.41)
Sandbox Data Analysis/Hosting	Jun-19	\$ (53,703.91)
Sandbox Data Analysis/Hosting	Jul-19	\$ (55,531.41)
Sandbox Data Analysis/Hosting	Aug-19	\$ (55,316.41)
Sandbox Data Analysis/Hosting	Sep-19	\$ (58,541.41)
Sandbox Data Analysis/Hosting	Oct-19	\$ (54,456.41)
Sandbox Data Analysis/Hosting	Nov-19	\$ (53,488.91)
Sandbox Data Analysis/Hosting	Dec-19	\$ (56,068.91)
Sandbox Data Analysis/Hosting	Jan-20	\$ (54,778.91)
Sandbox Data Analysis/Hosting	Feb-20	\$ (52,951.41)
Sandbox Data Analysis/Hosting	Mar-20	\$ (52,951.41)
Sandbox Data Analysis/Hosting	Apr-20	\$ (55,101.41)
Sandbox Data Analysis/Hosting	May-20	\$ (54,241.41)
Sandbox Data Analysis/Hosting	Jun-20	\$ (53,596.41)
Sandbox Data Analysis/Hosting	Jul-20	\$ (52,171.02)
Sandbox Data Analysis/Hosting	Aug-20	\$ (31,053.25)
Sandbox Data Analysis/Hosting	Sep-20	\$ (28,365.75)
Sandbox Data Analysis/Hosting	Oct-20	\$ (31,375.75)
Sandbox Data Analysis/Hosting	Nov-20	\$ (30,085.75)
Sandbox Data Analysis/Hosting	Dec-20	\$ (33,095.75)
Sandbox Data Analysis/Hosting	Jan-21	\$ (32,128.25)

Exhibit A

Litigation Data Services, LLC Invoices (January 2018-present)

Explanation	Month/Year	Allocation to Settlement Fund
Sandbox Data Analysis/Hosting	Feb-21	\$ (34,170.75)
Sandbox Data Analysis/Hosting	Mar-21	\$ (33,740.75)
Sandbox Data Analysis/Hosting	Apr-21	\$ (32,665.75)
Sandbox Data Analysis/Hosting	May-21	\$ (35,030.75)
Sandbox Data Analysis/Hosting	Jun-21	\$ (29,010.75)
Sandbox Data Analysis/Hosting	Jul-21	\$ (29,118.63)
Sandbox Data Analysis/Hosting	Aug-21	\$ (30,730.75)
Sandbox Data Analysis/Hosting	Sep-21	\$ (30,945.75)
Sandbox Data Analysis/Hosting	Oct-21	\$ (29,118.24)
Sandbox Data Analysis/Hosting	Nov-21	\$ (29,010.75)
Sandbox Data Analysis/Hosting	Dec-21	\$ (31,053.24)
Sandbox Data Analysis/Hosting	Jan-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Feb-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	Mar-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Apr-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	May-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Jun-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	Jul-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Aug-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	Sep-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Oct-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	Nov-22	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Dec-22	\$ (25,893.24)
Sandbox Data Analysis/Hosting	Jan-23	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Feb-23	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Mar-23	\$ (25,893.25)
Sandbox Data Analysis/Hosting	Apr-23	\$ (25,893.25)